

TO MEMBERS OF THE MONTANA LEGISLATURE:

**I BELIEVE THESE ARE SERIOUS ALLEGATIONS OF CASE FIXING
ACTIVITIES AND IMPROPRIETY.**

1.) My name is Joe Nascimento, attorney indefinitely suspended from the practice of law. I reported what I believe to be case fixing activities between a district judge and an attorney.

2.) In my civil case the judge was falsifying the court records. My pleadings were not being recorded as required by law. The MCA makes it clear that all pleadings arriving at the clerks, office must be recorded promptly, with the date and time of arrival. The judge in my case was pre-reading my filings, recording some and causing some not to be recorded. The judge issued a TRO (temporary restraining order) which was allowed to remain in effect for approximately 2 ½ years.

3.) I attempted to appeal to the Montana Supreme Court (hereafter referred to as "MTSCT") on, **three** different occasions. Notices **were intentionally withheld** so no timely appeals could be filed. On the **first appeal** the "MTSCT" stated they lacked jurisdiction to act.

4.) On my **second appeal** the "MTSCT" was informed that opposing counsel was refusing to contact me or respond to any requests for communication. The affidavit used to obtain the TRO was based on **fraud**. The district judge was also informed the TRO was based in fraud. I was told by the "MTSCT" on my **second** attempt to appeal to file an ethics complaint against opposing counsel. I was then informed that the judge would be fixing the ethics complaint for opposing counsel.

5.) The Commission on Practice is responsible for protecting the public from unscrupulous attorneys. The Commission responded that they had no jurisdiction over opposing counsel and the judge would handle the matter. The Commission has jurisdiction over all Montana attorneys.

6.) My civil case began with fraud and ended in fraud. My civil case ended with the issuance of **two** district court orders. **One** with the correct date for the court records and court file. The **second** district court order was backdated. I was mailed the backdated district court order. It was backdated 11 days and mailed to me by opposing counsel. At my rigged ethics hearing the judge and clerk of court admitted and verified that the backdated order was mailed to me by opposing counsel.

7.) So many pleadings were not being located or recorded that I was very concerned. I asked the judge to take some action since the TRO was in effect going on 2 1/2 years. The district judge ordered the parties to file a report to the court be filed.

8.) To ensure that my report to the court be filed into the record and was in proper form I took the following actions. I had an attorney with over 30 years of experience proof read

my report to the court. I also sent the report to the court to be filed in **triplicate**. One of my reports to the court was mailed to the clerk of court. One of my reports to the court was faxed to the clerk of court. One of my reports to the court was sent Federal Express directly to the judges' office.

9.) None of the three identical reports to the court was ever recorded or entered into the record. The report to the court sent to the judge was signed for using a false name. The court records were falsified to make it appear that I had filed no response to the district judges' order.

10.) The judge was circumventing the recording process. Opposing counsels filings were duly noted. The docket sheet made it look like I had allowed a default to be entered against me. The judge then filed a public ethics complaint against me and made it part of the record. All ethics complaints are to remain confidential until formal charges are filed.

11.) The judge falsely stated in her ethics complaint that only one pleading had not been filed because it contained obscenities. At my ethics hearing the judge admitted that there were no obscenities in my pleadings and that she just did not want to file my pleadings.

MY ETHICS HEARING

12.) I was **denied all discovery**. I was **denied witnesses** needed to defend. I was denied voir dire the right to disqualify hearing members for conflicts of interest. Members of the Commission on Practice worked on strategies to frame me, draft the complaint against me and as investigators. Some Commission members had **hundreds of pending cases** before the judge in question. They served as investigators, prosecutors and judges in my improper ethics hearing. **Exculpatory** evidence was **destroyed**. One investigator/attorney admitted destroying all his records and notes prior to my ethics hearing. I was **denied an opening statement**. I was given a timed two minutes to present my defense. I had to speed talk to present a defense while the two minutes ran down. I was **denied a closing argument**. I was given (30) days to submit proposed findings of facts and conclusions of law. Sometimes called written closing arguments. This was a **disingenuous** offer. All the Commission did was wait until I left the hearing and voted me guilty of ethics violations 30 days before the proposed findings of facts and conclusions of law were due. I was denied transcripts to write my closing arguments.

13.) The Commission on Practice hid this 30 day early day illegal vote to convict me of false ethics violations for over one year.

14.) The Montana Supreme Court wrote an opinion stating that my constitutional rights were not violated. At a Saint Patrick 's Day continuing legal education program I mentioned the above facts to a panel of state district judges and Supreme Court members.

15.) There was dead silence as the microphone was passed back and forth. Finally Justice Rice states" Joe we know there were some serious due process issues and problems with

your case.” I than followed up with what happens to my law license. There was no response. The Supreme Court members made a hasty exit for the parking lot.

16.) Nothing has changed the same people who I contend framed me are on the ethics Commission and this judge is still on the bench. I BELIEVE THE PUBLIC IS ENTITLED TO A FAIR AND HONEST LEGAL SYSTEM. I also believe that any state or public official involved in fixing cases, falsifying court records or framing people should be removed from office.

17.) Every member of the legislature was elected to represent the people and took an oath to uphold both the Montana State and Federal Constitution. No one should be above the law. With U.S. troops dying to establish democracy in other countries I believe the legislature has a legal and moral duty in investigate this matter.

The information provided is true to the best of my knowledge, opinion and belief.

Joe Nascimento
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